

109TH CONGRESS
1ST SESSION

H. R. 4075

To amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2005

Mr. POMBO introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marine Mammal Pro-
5 tection Act Amendments of 2005”.

6 **SEC. 2. AMENDMENT REFERENCES.**

7 Except as otherwise expressly provided, whenever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or repeal of, a section or other provi-
10 sion, the reference shall be considered to be made to such

1 section or other provision of the Marine Mammal Protec-
 2 tion Act of 1972 (16 U.S.C. 1361 et seq.).

3 **SEC. 3. TECHNICAL CORRECTIONS.**

4 (a) COMMITTEE REFERENCES.—The Marine Mam-
 5 mal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is
 6 amended by striking “Committee on Merchant Marine and
 7 Fisheries” each place it appears and inserting “Committee
 8 on Resources”.

9 (b) OBSOLETE REFERENCE TO SECTION.—Section
 10 118(c)(3)(A)(i) (16 U.S.C. 1387(c)(3)(A)(i)) is amended
 11 by striking “, except that” and all that follows through
 12 “is valid”.

13 **SEC. 4. LIMITED AUTHORITY TO EXPORT MARINE MAMMAL**
 14 **PRODUCTS.**

15 (a) IN GENERAL.—Section 101(a)(6) (16 U.S.C.
 16 1371(a)(6)) is amended by redesignating subparagraph
 17 (B) as subparagraph (C), and by inserting after subpara-
 18 graph (A) the following:

19 “(B) A marine mammal product may be ex-
 20 ported from the United States if the product—

21 “(i) is legally possessed, and exported by,
 22 a citizen of the United States for noncommer-
 23 cial purposes in conjunction with travel outside
 24 the United States and the product is imported

1 into the United States by the same person upon
 2 the termination of travel;

3 “(ii) is legally possessed, and exported by,
 4 a person that is not a citizen of the United
 5 States for noncommercial purposes;

6 “(iii) is legally possessed and exported as
 7 part of a cultural exchange, by an Indian,
 8 Aleut, or Eskimo residing in Alaska; or

9 “(iv) is owned by a Native inhabitant of
 10 Russia, Canada, or Greenland and is exported
 11 for noncommercial purposes—

12 “(I) in conjunction with, and upon the
 13 completion of, travel within the United
 14 States; or

15 “(II) as part of a cultural exchange
 16 with an Indian, Aleut, or Eskimo residing
 17 in Alaska.”.

18 (b) CONFORMING AMENDMENT.—Section
 19 101(a)(6)(A)(i) (16 U.S.C. 1371(a)(6)(A)(i)) is amended
 20 by inserting “for noncommercial purposes” after “United
 21 States” the first place it appears.

22 **SEC. 5. CAPTIVE RELEASE PROHIBITION.**

23 Section 102(a) (16 U.S.C. 1372(a)) is amended—

24 (1) in paragraph (4) by striking “subsection
 25 104(c); and” and inserting “section 104(c);”;

1 (2) in paragraph (5) by striking the period and
2 inserting “; and”; and

3 (3) by adding at the end the following:

4 “(6) for any person that is subject to the juris-
5 diction of the United States to release any captive
6 marine mammal unless specifically authorized to do
7 so under section 104(c)(3)(A), 104(c)(4)(A), or
8 109(h), except that this paragraph shall not apply to
9 the temporary release of any marine mammal that
10 is maintained in captivity under section 7524 of title
11 10, United States Code (including any progeny of a
12 marine mammal maintained under that section).”.

13 **SEC. 6. ANNUAL REPORT REQUIREMENT.**

14 Section 103(f) (16 U.S.C. 1373(f)) is amended in the
15 first sentence, by inserting “and notwithstanding Public
16 Law 104–66” after “thereafter”.

17 **SEC. 7. PERMIT CLARIFICATIONS.**

18 (a) CLARIFICATIONS.—Section 104 (16 U.S.C. 1374)
19 is amended as follows:

20 (1) Subsection (c)(7) is amended by inserting
21 “notwithstanding any other provision of law” after
22 “requesting the permit”.

23 (2) Subsection (c)(9) is amended to read as fol-
24 lows:

25 “(9)(A) No marine mammal may be exported—

1 “(i) for the purpose of public display,
2 unless the Secretary of Agriculture evalu-
3 ates and verifies, and thereafter notifies
4 the Secretary, that the receiving facility
5 meets standards that are comparable to
6 the requirements that a person must meet
7 to receive a permit under this subsection
8 for that purpose; or

9 “(ii) for the purpose of scientific re-
10 search or enhancing the survival or recov-
11 ery of a species or stock, unless the receiv-
12 ing facility meets standards that are com-
13 parable to the requirements that a person
14 must meet to receive a permit under this
15 subsection for that purpose.

16 “(B) The Secretary may not require or request,
17 through comity or any other means, that any marine
18 mammal or its progeny remain subject to the juris-
19 diction of the United States when located in waters
20 or on lands that are subject to the jurisdiction of an-
21 other country.”.

22 (3) Subsection (c)(10) is amended—

23 (A) in the first sentence by inserting “held
24 within the lands and waters of the United

1 States” after “marine mammals” each place it
2 appears;

3 (B) by inserting after the first sentence
4 the following: “The Secretary shall update the
5 inventory on an annual basis.”; and

6 (C) in subparagraph (D) by inserting
7 “ownership, or other” after “date of”.

8 (b) REVIEW AND REPORT REGARDING INVEN-
9 TORY.—

10 (1) REVIEW.—The Secretaries of Commerce
11 and the Interior shall, by not later than 12 months
12 after date of the enactment of this Act, jointly con-
13 duct a review of the inventory maintained under sec-
14 tion 104(c)(10) of the Marine Mammal Protection
15 Act of 1972 (16 U.S.C. 1374(c)(10)), the use of the
16 information in the inventory, and the costs, benefits,
17 and issues associated with the development of an on-
18 line inventory.

19 (2) CONSULTATION.—In conducting the review,
20 the Secretary shall consult and solicit input from
21 persons who are required to provide information for
22 the inventory.

23 (3) REPORT.—The Secretary shall submit a re-
24 port to Committee on Resources of the House of
25 Representatives and the Committee on Commerce,

1 Science, and Transportation of the Senate on the
2 findings of the review under this subsection. The re-
3 port shall include the following:

4 (A) Recommendations on whether the in-
5 ventory should be maintained by the Secretary
6 or by another person under contract.

7 (B) How the Secretary would oversee
8 maintenance of the inventory carried out under
9 contract.

10 (C) How public access and access by Fed-
11 eral agencies to the inventory can be main-
12 tained if the inventory is maintained under con-
13 tract.

14 (D) How the Secretary can minimize dupli-
15 cation on the information the Secretary receives
16 from public display facilities and reduce the
17 paper work burden on those facilities.

18 (E) An estimate of the cost of maintaining
19 the inventory.

20 (F) A description of how the Secretary will
21 ensure the secure maintenance of the data in
22 the inventory.

23 (G) An analysis of the potential that online
24 availability of the information in the inventory
25 could adversely affect the safety of the animals.

1 (c) LIMITATION ON NOTIFICATION REQUIRE-
2 MENTS.—Section 104(c) (16 U.S.C. 1374(c)) is amended
3 in paragraph (2)(E) in the first sentence, and in para-
4 graph (8)(B)(i)(II), by inserting before the period at the
5 end the following: “, except that if the transport is for
6 purposes of public display and the transfer is between fa-
7 cilities where the ownership and care of the marine mam-
8 mal will be under the same license or registration issued
9 under the Animal Welfare Act (7 U.S.C. 2131 et seq.)
10 then only a notice of transport is required”.

11 **SEC. 8. FINES AND PENALTIES.**

12 (a) FINES AND PENALTIES, GENERALLY.—Section
13 105 (16 U.S.C. 1375) is amended—

14 (1) in subsection (a)(1) by striking “\$10,000”
15 and inserting “\$20,000”; and

16 (2) in subsection (b) by striking “\$20,000” and
17 inserting “\$30,000”.

18 (b) VESSEL PENALTY.—Section 106(b) (16 U.S.C.
19 1376(b)) is amended by striking “\$25,000” and inserting
20 “\$35,000”.

21 **SEC. 9. MARINE MAMMAL GRANTS.**

22 Section 110 (16 U.S.C. 1380) is amended—

23 (1) by amending subsection (a) to read as fol-
24 lows:

1 “(a) AUTHORIZATION OF ASSISTANCE; ANNUAL RE-
2 PORT.—

3 “(1) AUTHORIZATION OF ASSISTANCE.—The
4 Secretary may make grants, or provide financial as-
5 sistance in such other form as the Secretary con-
6 siders appropriate, to any Federal or State agency,
7 public or private institution, or other person for the
8 purpose of assisting such agency, institution, or per-
9 son to undertake research in subjects that are rel-
10 evant to the protection and conservation of marine
11 mammals.

12 “(2) REPORTS.—

13 “(A) REPORTS BY SECRETARY.—The Sec-
14 retary shall include a description of the results
15 of research carried out with assistance under
16 this section in the annual report required under
17 section 103(f).

18 “(B) REPORTS BY FEDERAL AGENCIES.—
19 The head of each Federal agency that conducts
20 and provides funds for research on marine
21 mammals shall report annually to the Com-
22 mittee on Resources of the House of Represent-
23 atives and the Committee on Commerce,
24 Science, and Transportation of the Senate on
25 funding provided and research conducted re-

1 garding marine mammals during the preceding
2 year.

3 “(3) CONTRIBUTIONS.—For purposes of car-
4 rying out this section, the Secretary may accept, so-
5 licit, receive, hold, administer, and use gifts, devises,
6 and bequests.”; and

7 (2) by striking subsection (c) and inserting the
8 following:

9 “(c) AUTHORIZATION OF APPROPRIATIONS.—To
10 carry out this section there is authorized to be appro-
11 priated to the Secretary \$1,500,000 for each of fiscal
12 years 2006 through 2010.”.

13 **SEC. 10. FISHERIES GEAR DEVELOPMENT.**

14 Section 111 (16 U.S.C. 1381) is amended as follows:

15 (1) Subsection (a) is amended to read as fol-
16 lows:

17 “(a) FISHING GEAR DEVELOPMENT PROGRAM.—

18 “(1) IN GENERAL.—The Secretary of Com-
19 merce (in this section referred to as the ‘Secretary’)
20 shall—

21 “(A) carry out a program for the purpose
22 of devising improved fishing gear and methods
23 so as to reduce to the maximum extent prac-
24 ticable the incidental taking of marine mam-
25 mals in connection with fishing operations; and

1 “(B) make every practicable effort to de-
2 velop, evaluate, and make available to owners
3 and operators of fishing vessels such gear and
4 fishing method improvements as quickly as pos-
5 sible.

6 “(2) COORDINATION WITH OTHER COUN-
7 TRIES.—The Secretary may coordinate with other
8 countries to foster gear technology transfer initia-
9 tives to reduce to the maximum extent practicable
10 the incidental mortality and serious injury of marine
11 mammals throughout the full extent of their range.”.

12 (2) By adding at the end the following:

13 “(e) GEAR IMPROVEMENT MINI-GRANT PROGRAM.—

14 “(1) IN GENERAL.—Subject to the availability
15 of appropriations, the Secretary may establish a
16 grant program to provide financial assistance for de-
17 veloping, manufacturing, testing, or designing new
18 types of fishing gear designed to reduce to the max-
19 imum extent practicable the incidental taking (in-
20 cluding incidental mortality and serious injury) of
21 marine mammals.

22 “(2) GRANT AMOUNT AND PURPOSES.—The
23 amount of a grant under this subsection may not ex-
24 ceed \$20,000.

1 “(3) GRANT APPLICATIONS.—To receive a
2 grant under this section, an applicant must submit
3 an application in such form and manner as the Sec-
4 retary may prescribe.

5 “(4) CONSULTATION REGARDING CRITERIA.—
6 The Secretary shall consult with the Secretary of the
7 Interior and the Marine Mammal Commission re-
8 garding the development of criteria for the awarding
9 of grants under this subsection.

10 “(5) ADMINISTRATIVE COSTS.—Of amounts
11 available each fiscal year to carry out this sub-
12 section, the Secretary may expend not more than
13 \$40,000 to pay the administrative expenses nec-
14 essary to carry out this subsection.

15 “(6) CONTRIBUTIONS.—For purposes of car-
16 rying out this section, the Secretary may accept, so-
17 licit, receive, hold, administer, and use gifts, devises,
18 and bequests.

19 “(f) AUTHORIZATION OF APPROPRIATIONS.—To
20 carry out this section there is authorized to be appro-
21 priated to the Secretary \$1,500,000 for each of fiscal
22 years 2006 through 2010.”.

23 **SEC. 11. CONFORMING AMENDMENT.**

24 Subsection (c) of the Dolphin Protection Consumer
25 Information Act (16 U.S.C. 1385) is amended in para-

1 graph (2) by striking “160 degrees west longitude” and
2 inserting “150 degrees west longitude”.

3 **SEC. 12. TAKE REDUCTION PLANS.**

4 (a) IN GENERAL.—Section 118 (16 U.S.C. 1387) is
5 amended as follows:

6 (1) In subsection (a) by striking “commercial”
7 each place it appears in paragraphs (1) and (5).

8 (2) In subsection (c)(1) by striking so much as
9 precedes subparagraph (B) and inserting the fol-
10 lowing:

11 “(c) REGISTRATION AND AUTHORIZATION.—(1) The
12 Secretary shall, within 90 days after the date of enactment
13 of the Marine Mammal Protection Act Amendments of
14 2005—

15 “(A) publish in the Federal Register for public
16 comment, for a period of not less than 90 days, any
17 necessary changes to the Secretary’s list of fisheries
18 published under section 114(b)(1) in the Federal
19 Register on August 24, 1994 (along with an expla-
20 nation of such changes and a statement describing
21 the marine mammal stocks interacting with, and the
22 approximate number of vessels or persons actively
23 involved in, each such fishery), with respect to—

1 “(i) commercial and recreational fisheries
2 that have frequent incidental mortality and seri-
3 ous injury of marine mammals;

4 “(ii) commercial and recreational fisheries
5 that have occasional incidental mortality and
6 serious injury of marine mammals; or

7 “(iii) commercial fisheries that have a re-
8 mote likelihood of or no known incidental mor-
9 tality or serious injury of marine mammals;”.

10 (3) In subsection (c)(1) in subparagraphs (B)
11 and (C) by striking “commercial”.

12 (4) In subsection (c)(2)(A) by striking “com-
13 mercial”.

14 (5) In subsection (c)(3)(A) in the matter pre-
15 ceding clause (i) by striking “a commercial fishery”
16 and inserting “that fishery”.

17 (6) In subsection (c)(3)(E) by inserting “com-
18 mercial” after “any”.

19 (7) In subsection (c)(5)(B) by striking “com-
20 mercial”.

21 (8) In subsection (d)(1) in the matter preceding
22 subparagraph (A) by striking “commercial fishing
23 operations” and inserting “fishing operations in a
24 fishery listed under subsection (c)(1)(A)(i) or (ii)”.

1 (9) In subsection (d)(3) in the matter preceding
2 subparagraph (A) by striking “commercial fisheries”
3 and inserting “fisheries listed under subsection
4 (c)(1)(A)(i) or (ii)”.

5 (10) In subsection (d)(4) as follows:

6 (A) In the matter preceding subparagraph
7 (A) by striking “commercial fisheries” and in-
8 serting “fisheries listed under subsection
9 (c)(1)(A)(i) or (ii)”.

10 (B) In subparagraph (A) by striking “com-
11 mercial fisheries” and inserting “fisheries listed
12 under subsection (c)(1)(A)(i) or (ii)”.

13 (C) In subparagraph (B) by striking “com-
14 mercial fisheries” and inserting “fisheries listed
15 under subsection (c)(1)(A)(i) or (ii)”.

16 (D) In subparagraph (C) by striking “com-
17 mercial fisheries” and inserting “fisheries listed
18 under subsection (c)(1)(A)(i) or (ii)”.

19 (11) In subsection (d)(5) by striking “commer-
20 cial fishing operations” and inserting “fishing oper-
21 ations in fisheries listed under subsection
22 (c)(1)(A)(i) or (ii)”.

23 (12) In subsection (e) in the matter preceding
24 paragraph (1)—

1 (A) by striking “commercial” each place it
2 appears; and

3 (B) by striking “this Act” and inserting
4 “this section”.

5 (13) In subsection (f) by striking so much as
6 precedes paragraph (2) and inserting the following:

7 “(f) TAKE REDUCTION PLANS.—(1) The Secretary
8 shall develop and implement a take reduction plan de-
9 signed to assist in the recovery or prevent the depletion
10 of each strategic stock which interacts with a fishery listed
11 under subsection (c)(1)(A)(i) or (ii), unless the Secretary
12 determines, after notice and opportunity for public com-
13 ment, that the level of fishery related mortality and seri-
14 ous injury is having a negligible impact on that stock. The
15 Secretary may develop and implement a take reduction
16 plan for any other marine mammal stocks which interact
17 with a fishery listed under subsection (c)(1)(A)(i) which
18 the Secretary determines, after notice and opportunity for
19 public comment, has a high level of mortality and serious
20 injury across a number of such marine mammal stocks.”.

21 (14) In subsection (f)(2)—

22 (A) by striking “6 months” and inserting
23 “9 months”; and

24 (B) by striking “commercial fishing oper-
25 ations” each place it appears and inserting

1 “fishing operations in fisheries listed under sub-
2 section (c)(1)(A)(i) or (ii)”.

3 (15) In subsection (f)(3) by striking “commer-
4 cial”.

5 (16) In subsection (f)(4)(B) by striking “com-
6 mercial fishing operations” and inserting “fishing
7 operations in fisheries listed under subsection
8 (c)(1)(A)(i) or (ii)”.

9 (17) In subsection (f)(5)—

10 (A) in subparagraph (A) by striking “6
11 months” and inserting “9 months”; and

12 (B) in subparagraphs (A) and (B) by
13 striking “commercial” each place it appears.

14 (18) In subsection (f)(6)(A)—

15 (A) by striking “(not later than 30 days)”;
16 and

17 (B) in clause (ii) by striking “commercial
18 fisheries” and inserting “fisheries listed under
19 subsection (c)(1)(A)(i) or (ii)”.

20 (19) In subsection (f)(6)(C) in the second sen-
21 tence, by inserting before “, and others” the fol-
22 lowing: “, where appropriate a representative of the
23 office of General Counsel of the National Oceanic
24 and Atmospheric Administration, a representative of
25 the National Marine Fisheries Service having re-

1 responsibilities related to fisheries science, a represent-
2 ative of the National Marine Fisheries Service hav-
3 ing responsibilities related to law enforcement, and
4 a representative of the appropriate National Marine
5 Fisheries Service Regional Administrator”.

6 (20) In subsection (f)(7)—

7 (A) in subparagraph (A)(i) by striking “6
8 months” and inserting “9 months”;

9 (B) in subparagraph (B)(i)—

10 (i) by striking “not later than 60
11 days” and inserting “not later than 120
12 days”; and

13 (ii) by adding at the end the fol-
14 lowing: “Before publishing any plan that is
15 different than the draft plan proposed by
16 a take reduction team, the Secretary shall
17 reconvene the team and explain to the
18 team the differences between the published
19 plan and the draft plan proposed by the
20 team.”; and

21 (C) in subparagraph (B)(ii)—

22 (i) by striking “6 months” and insert-
23 ing “9 months”; and

1 (ii) by striking “not later than 8
2 months” and inserting “not later than 11
3 months”.

4 (21) In subsection (f)(7)(C) by striking “Not
5 later than 60 days” and inserting “Not later than
6 90 days”.

7 (22) In subsection (f)(7)(D) by striking “com-
8 mercial”.

9 (23) In subsection (f)(8)—

10 (A) in subparagraph (C) by striking “Not
11 later than 60 days” and inserting “Not later
12 than 180 days”; and

13 (B) by striking “commercial” each place it
14 appears.

15 (24) In subsection (f)(9) as follows:

16 (A) In subparagraph (A) by striking “com-
17 mercial fisheries or restrict commercial fish-
18 eries” and inserting “fisheries listed under sub-
19 section (c)(1)(A)(i) or (ii) or restrict such fish-
20 eries”.

21 (B) In subparagraphs (B) and (C) by
22 striking “commercial” each place it appears.

23 (C) In subparagraph (D) by striking “com-
24 mercial fishing operations” and inserting “par-

1 ticipation in a fishery listed under subsection
2 (c)(1)(A)(i) or (ii)”.

3 (25) In subsection (g)(1) by striking “commer-
4 cial fisheries” and inserting “fisheries listed under
5 subsection (c)(1)(A)(i) or (ii)”.

6 (26) In subsection (g)(3)(B) by striking “com-
7 mercial”.

8 (27) In subsection (g)(4) by striking “commer-
9 cial fishery” and inserting “fishery listed under sub-
10 section (c)(1)(A)(i) or (ii)”.

11 (28) In subsection (j) by inserting “including
12 observer, research, and education and outreach pro-
13 grams,” after “For purposes of carrying out this
14 section,”.

15 (29) By amending subsection (d)(1)(C) to read
16 as follows:

17 “(C) identify current fishery regulations and
18 changes in fishing methods or technology that may
19 increase or decrease incidental mortality and serious
20 injury.”.

21 (30) In subsection (f)(2) in the last sentence by
22 inserting “conservation benefits of” before “State or
23 regional fishery management plans.”.

24 (31) By amending subsection (f)(4)(A) to read
25 as follows:

1 “(A) a review of the information in the final
2 stock assessment published under section 117(b),
3 any substantial new information, a review of the
4 conservation benefits from current State and re-
5 gional fishery management regulations;”.

6 (b) STOCK ASSESSMENTS.—Section 117(a)(4) is
7 amended—

8 (1) by striking “and” at the end of subpara-
9 graph (C);

10 (2) by inserting “and” at the end of subpara-
11 graph (D); and

12 (3) by adding at the end the following:

13 “(E) potential conservation benefits pro-
14 vided by State and regional fishery manage-
15 ment regulations;”.

16 (c) ZERO MORTALITY RATE GOAL AMENDMENTS.—
17 Section 118 (16 U.S.C. 1387) is amended in subsections
18 (a)(1) and (b)(1) by striking “within 7 years after the date
19 of enactment of this section” each place it appears.

20 (d) CONFORMING AMENDMENT.—Section
21 101(a)(5)(E) (16 U.S.C. 1371(a)(5)(E)) is amended by
22 inserting “or recreational” after “commercial” each place
23 it appears.

1 **SEC. 13. PINNIPED CONTROL PROGRAM.**

2 Section 120 (16 U.S.C. 1389) is amended by adding
3 at the end the following:

4 “(k) NONLETHAL REMOVAL AND CONTROL.—(1)
5 The Secretary shall conduct a program on the nonlethal
6 removal and control of nuisance pinnipeds. The program
7 shall include a review of measures that have been taken
8 to effect such removal and control, the effectiveness of
9 these measures, and the development of new technologies
10 to deter nuisance pinnipeds.

11 “(2) The Secretary shall include, among the individ-
12 uals that develop the program under this subsection, rep-
13 resentatives of the commercial and recreational fishing in-
14 dustries.

15 “(3) The Secretary is encouraged, where appropriate,
16 to use independent marine mammal research institutions
17 in developing and in conducting the program.

18 “(4) The Secretary shall, by December 31 of each
19 year, submit an annual report on the results of research
20 under this subsection to the Committee on Resources of
21 the House of Representatives and the Committee on Com-
22 merce, Science, and Transportation of the Senate.

23 “(l) QUALIFIED NONLETHAL CONTROL PROJECTS.—

24 “(1) IN GENERAL.—The Secretary may, to the
25 extent amounts are available to carry out this sub-
26 section, provide a grant to any eligible applicant to

1 carry out a qualified nonlethal control project in ac-
2 cordance with this subsection.

3 “(2) APPLICATIONS.—The Secretary shall—

4 “(A) publish guidelines for and solicit ap-
5 plications for grants under this subsection not
6 later than 6 months after the date of enactment
7 of this subsection; and

8 “(B) receive, review, evaluate, and approve
9 applications for grants under this subsection.

10 “(3) ELIGIBLE APPLICANT.—To be an eligible
11 applicant for purposes of paragraph (1), an appli-
12 cant must—

13 “(A) be a State, local government, or
14 interstate or regional agency; and

15 “(B) have adequate personnel, funding,
16 and authority to carry out and monitor or
17 maintain a nonlethal control of nuisance
18 pinnipeds project.

19 “(4) QUALIFIED CONTROL PROJECT.—To be a
20 qualified control project under this subsection, a
21 project must—

22 “(A) by humane and nonlethal means, re-
23 move, deter, and control nuisance pinnipeds in
24 areas where they are a recurrent and persistent
25 threat to public health and safety; and

1 “(B) encourage public notice, education,
2 and outreach on project activities in the af-
3 fected community.

4 “(5) GRANT DURATION.—Each grant under
5 this subsection shall be to provide funding for the
6 Federal share of the cost of a project carried out
7 with the grant for up to 2 fiscal years.

8 “(6) REPORTING BY GRANTEE.—

9 “(A) IN GENERAL.—A grantee carrying
10 out a control project with a grant under this
11 subsection shall report to the Secretary at the
12 expiration of the grant.

13 “(B) REPORT CONTENTS.—Each report
14 under this subsection shall include specific in-
15 formation on the methods and techniques used
16 to control nuisance pinniped species in the
17 project area, and on the ensuing results.

18 “(7) COST SHARING.—

19 “(A) FEDERAL SHARE.—Except as pro-
20 vided in paragraphs (2) and (3), the Federal
21 share of the cost of a project carried out with
22 a grant under this subsection shall not exceed
23 75 percent of such cost.

24 “(B) APPLICATION OF IN-KIND CONTRIBU-
25 TIONS.—The Secretary may apply to the non-

1 Federal share of costs of a control project car-
2 ried out with a grant under this subsection the
3 fair market value of services or any other form
4 of in-kind contribution to the project made by
5 non-Federal interests that the Secretary deter-
6 mines to be an appropriate contribution equiva-
7 lent to the monetary amount required for the
8 non-Federal share of the activity.

9 “(C) DERIVATION OF NON-FEDERAL
10 SHARE.—The non-Federal share of the cost of
11 a control project carried out with a grant under
12 this subsection may not be derived from a Fed-
13 eral grant program or other Federal funds.

14 “(8) AUTHORIZATION OF APPROPRIATIONS.—
15 There are authorized to be appropriated to the Sec-
16 retary \$1,500,000 for each of fiscal years 2006
17 through 2010.

18 “(9) CLARIFICATION.—Nothing in this sub-
19 section shall be interpreted as suspending or waiving
20 any requirement under any other provision of this
21 Act.”.

22 **SEC. 14. MARINE MAMMAL COMMISSION.**

23 (a) NUMBER OF EMPLOYEES.—Section 206(5) (16
24 U.S.C. 1406(5)) is amended by striking “; except that no

1 fewer than 11 employees must be employed under para-
 2 graph (1) at any time”.

3 (b) ADMINISTRATION.—Section 206 (16 U.S.C.
 4 1406) is amended—

5 (1) in paragraph (4) by striking “(but at rates
 6 for individuals not to exceed \$100 per diem)”; and

7 (2) in paragraph (5) by striking “Financial”
 8 and all that follows through the end of that sen-
 9 tence.

10 **SEC. 15. STRANDING AND ENTANGLEMENT RESPONSE.**

11 (a) COLLECTION AND UPDATING OF INFORMA-
 12 TION.—Section 402(b)(1)(A) (16 U.S.C. 1421a(b)(1)(A))
 13 is amended by inserting “or entangled” after “stranded”.

14 (b) ENTANGLEMENT RESPONSE AGREEMENTS.—

15 (1) IN GENERAL.—Section 403 (16 U.S.C.
 16 1421b) is amended—

17 (A) by amending the section heading to
 18 read as follows:

19 **“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE**
 20 **AGREEMENTS.”**; and

21 (B) in subsection (a) by inserting “or en-
 22 tanglement” before the period.

23 (2) CLERICAL AMENDMENT.—The table of con-
 24 tents at the end of the first section is amended by

1 striking the item relating to section 403 and insert-
 2 ing the following:

“Sec. 403. Stranding or entanglement response agreements.”.

3 (c) LIABILITY.—Section 406(a) (16 U.S.C. 1421e(a))
 4 is amended by inserting “or entanglement” after “strand-
 5 ing”.

6 (d) ENTANGLEMENT DEFINED.—

7 (1) IN GENERAL.—Section 410 (16 U.S.C.
 8 1421h) is amended—

9 (A) by redesignating paragraphs (1)
 10 through (6) in order as paragraphs (2) through
 11 (7); and

12 (B) by inserting before paragraph (2) (as
 13 so redesignated) the following:

14 “(1) The term ‘entanglement’ means an event
 15 in the wild in which a living or dead marine mammal
 16 has gear, rope, line, net, or other material wrapped
 17 around or attached to it and is—

18 “(A) on a beach or shore of the United
 19 States; or

20 “(B) in waters under the jurisdiction of
 21 the United States.”.

22 (2) CONFORMING AMENDMENT.—Section
 23 408(a)(2)(B)(i) (16 U.S.C. 1421f–1(a)(2)(B)(i)) is
 24 amended by striking “section 410(6)” and inserting
 25 “section 410(7)”.

1 (e) JOHN H. PRESCOTT MARINE MAMMAL RESCUE
2 ASSISTANCE GRANT PROGRAM.—

3 (1) AUTHORIZATION OF APPROPRIATIONS FOR
4 GRANT PROGRAM.—Section 408(h) (16 U.S.C.
5 1421f–1(h)) is amended—

6 (A) by striking “\$5,000,000 for each of
7 fiscal years 2001 through 2003” and inserting
8 “\$7,000,000 for each of fiscal years 2006
9 through 2010”; and

10 (B) in paragraph (1) by striking
11 “\$4,000,000” and inserting “\$6,000,000”.

12 (2) ADMINISTRATIVE COSTS AND EXPENSES.—
13 Section 408 (16 U.S.C. 1421f–1) is amended—

14 (A) by adding at the end of subsection
15 (a)(1) the following: “All funds available to im-
16 plement this section shall be distributed to eligi-
17 ble stranding network participants for the pur-
18 poses set forth in this paragraph and paragraph
19 (2), except as provided in subsection (f).”; and

20 (B) by amending subsection (f) to read as
21 follows:

22 “(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of
23 the amounts available each fiscal year to carry out this
24 section, the Secretary may expend not more than 5 per-
25 cent or \$80,000, whichever is greater, to pay the adminis-

1 trative costs and administrative expenses to implement the
2 grant program under subsection (a). Any such funds re-
3 tained by the Secretary for a fiscal year for such costs
4 and expenses that are not used for such costs and ex-
5 penses before the end of the fiscal year shall be provided
6 as grants under subsection (a).”.

7 (3) EMERGENCY ASSISTANCE.—Section 408 (16
8 U.S.C. 1421f–1) is amended—

9 (A) in subsection (a) by redesignating
10 paragraph (2) as paragraph (3), and by insert-
11 ing after paragraph (1) the following:

12 “(2) Subject to the availability of appropriations, the
13 Secretary may also enter into cooperative agreements, con-
14 tracts, or such other agreements or arrangements as the
15 Secretary considers appropriate to address stranding
16 events requiring emergency assistance.”;

17 (B) in subsection (d) by inserting “(1)”
18 before the text, and by adding at the end the
19 following:

20 “(2) Funding for emergency stranding projects shall
21 not be subject to the funding limit established in para-
22 graph (1).”;

23 (C) in subsection (e)—

24 (i) in paragraph (1) by striking “The
25 non-Federal” and inserting “Except as

1 provided in paragraph (2), the non-Fed-
2 eral”;

3 (ii) by redesignating paragraph (2) as
4 paragraph (3); and

5 (iii) by inserting after paragraph (1)
6 the following:

7 “(2) EMERGENCY ASSISTANCE.—No non-Fed-
8 eral contribution shall be required for funding for a
9 response to an emergency stranding event.”; and

10 (D) in subsection (g) by redesignating
11 paragraph (2) as paragraph (3) and inserting
12 after paragraph (1) the following:

13 “(2) EMERGENCY ASSISTANCE.—The term
14 ‘emergency assistance’ means assistance provided for
15 a stranding event that—

16 “(A) is not an unusual mortality event as
17 defined in section 409(6);

18 “(B) leads to an immediate increase in re-
19 quired costs for stranding response, recovery, or
20 rehabilitation in excess of regularly scheduled
21 costs;

22 “(C) may be cyclical or endemic; and

23 “(D) may involve out-of-habitat animals.”.

1 (4) CONTRIBUTIONS.—Section 408 (16 U.S.C.
2 1421f–1) is amended by adding at the end the fol-
3 lowing:

4 “(i) CONTRIBUTIONS.—For purposes of carrying out
5 this section, the Secretary may solicit, accept, receive,
6 hold, administer, and use gifts, devises, and bequests.”.

7 (f) AUTHORIZATION OF APPROPRIATIONS FOR MA-
8 RINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—
9 Section 409(3) (16 U.S.C. 1421g(3)) is amended by strik-
10 ing “\$500,000 for fiscal year 1993” and inserting
11 “\$125,000 for each of fiscal years 2006 through 2010”.

12 **SEC. 16. SCRIMSHAW EXEMPTION.**

13 Any valid certificate of exemption referred to in sec-
14 tion 18 of Public Law 103–238 (16 U.S.C. 1539 note)
15 that was valid under that section on April 29, 1999, shall
16 be valid during the 11-year period beginning October 31,
17 1999.

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